

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: June 21, 2006

Division: County Attorney

Bulk Item: Yes xx No    

Department: County Attorney

Staff Contact Person: Bob Shillinger x3470

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**AGENDA ITEM WORDING:**

Approval of settlement agreement in matter of *Marylin Nunziantie v. Monroe County, et al.*, 2004 CA 1227 K.

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**ITEM BACKGROUND:**

Mrs. Nunziantie filed suit against the County seeking a judicial declaration invalidating the County's admission practices and policies for Bayshore Manor as they were being applied to her in her application for permanent residency and an injunction preventing the County from evicting her from Bayshore. Mrs. Nunziantie had been admitted to Bayshore on a temporary basis for respite care and was seeking a permanent placement. Because she asserted that she did not have sufficient income or assets to pay the full, private pay rate for Bayshore, County staff had sought financial information from her family to determine if the family would pay the shortfall.

In exchange for the County's agreement not to evict her while the litigation was pending, Mrs. Nunziantie's family had agreed to escrow the monthly shortfall. The parties agreed that entitlement to the escrowed funds would be determined by the Court. That agreement was approved by the BOCC and the Court in November of 2004.

Unfortunately, Mrs. Nunziantie passed away earlier this year. In an effort to close this matter, the Plaintiff's family has offered to drop the suit in exchange for a release of the escrowed funds (\$11,803.58). Under the proposed settlement agreement, the County would release any claim to the escrowed funds and receive in exchange a dismissal of the suit and a liability release for any related claims. Settlement would additionally save any additional litigation costs. Independent of the litigation and the settlement agreement, County staff is revising Bayshore's admissions policies.

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**PREVIOUS RELEVANT BOCC ACTION:** On November 29, 2004, Board approved stipulation providing for temporary placement of Mrs. Nunziantie pending the outcome of the litigation.

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**CONTRACT/AGREEMENT CHANGES:** N/A

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**STAFF RECOMMENDATIONS:**

Approval; Sheila Barker, the Acting Social Services Director and the County Administrator concur.

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**TOTAL COST:** Loss of disputed claim to \$11,803.58

**BUDGETED:** N/A

**COST TO COUNTY:** Same

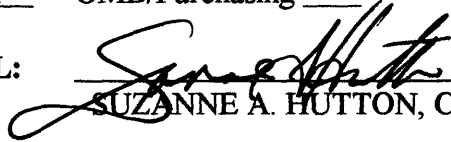
**SOURCE OF FUNDS:** n/a

**REVENUE PRODUCING:** Yes     No xx

**AMOUNT PER MONTH** N/A **Year** N/A

**APPROVED BY:** County Atty xx OMB/Purchasing \_\_\_\_\_ Risk Management \_\_\_\_\_

**DIVISION DIRECTOR APPROVAL:**

 6/05/06  
SUZANNE A. HUTTON, COUNTY ATTORNEY

**DOCUMENTATION:** Included xx Not Required \_\_\_\_\_ **TO FOLLOW**

**DISPOSITION:** \_\_\_\_\_

**AGENDA ITEM #** \_\_\_\_\_

Revised 2/05

**DRAFT**

IN THE CIRCUIT COURT OF THE 16<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR MONROE COUNTY, FLORIDA  
CIVIL DIVISION – JUDGE JONES

Marilyn J. Nunziante,  
Plaintiff,

VS.

CASE NO.: 2004-CA-1227-K

Monroe County BOCC

and

Sheila Barker, as Acting Director of  
Monroe County Social Services,

Defendants.

SETTLEMENT AGREEMENT

The Plaintiff, Marilyn J. Nunziante (hereinafter “Mrs. Nunziante”), by and through her next friend and daughter Karen Lockwood, and the Defendant Monroe County Board of County Commissioners and Sheila Barker as Acting Director of Monroe County Social Services (hereinafter “the County”), agree to settle the above-referenced matter as more fully set forth below:

1. The parties acknowledge that Sheila Barker (hereinafter “Mrs. Barker”), in her official capacity as Acting Director Social Services for Monroe County, has been, by operation of law, automatically substituted for Louis LaTorre as a co-Defendant upon the resignation of Mr. LaTorre from his position as Social Services Director effective May 1, 2006. *See*, Fla.R.Civ.P. 1.260(d)(1).

2. In executing this agreement, the County and Mrs. Barker release any claim of entitlement to the funds being held in escrow by Mrs. Nunziante’s counsel Joseph

Albury pursuant to the stipulation entered into by the parties and approved by the Court on or about November 30, 2004.

3. In consideration of the release by the County and Mrs. Barker of any claim of entitlement to the funds being held in escrow by Mrs. Nunziante's attorney Joseph Albury pursuant to the stipulation entered into by the parties and approved by the Court on or about November 30, 2004, the Plaintiff will enter a voluntary dismissal with prejudice of the above-styled matter within 15 days from the date the last party executes this agreement. The parties agree that time is of the essence.

4. In consideration of the promises made herein and for other good and valuable consideration, the parties, their heirs, successors, and/or assigns each agree to release each other, including but not limited to current and former employees of the County, from any claim or cause of action of any type that was raised or capable of being raised as a result of the facts underlying this action.

5. By entering into this Agreement, the parties are not acknowledging the merits or lack of merits of these proceedings. Rather, the parties are entering into this Agreement for the purpose of avoiding further expense and delay inherent in litigation of this nature.

6. Except as specifically set forth herein, the parties agree to bear their own costs and attorney's fees.

7. This written Settlement Agreement represents the entire agreement of the parties.

8. Each party warrants that it has the capacity to enter into this agreement.

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9. Each party warrants that it has had an opportunity to consult with counsel prior to entering into this settlement agreement.

For the Plaintiff  
Marilyn J. Nunzianta

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Karen Lockwood, (Date)  
as Next Friend

Danny L. Kolhage  
Monroe County Clerk

For the Defendant  
Monroe County B.O.C.C.,

By: \_\_\_\_\_  
Deputy Clerk (Date)

\_\_\_\_\_  
Charles "Sonny" McCoy  
Mayor

For the Defendant Sheila Barker, as  
Acting Social Services Director

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Sheila Barker (Date)